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# Reason, Revelation, Universality and Particularity in Ethics

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# REASON, REVELATION, UNIVERSALITY AND PARTICULARITY IN ETHICS

JOHN FINNIS

Any jurisprudential, moral or political theory that affirms natural law needs to respond first to skeptical denials that reason can discover any truths about what ends all human individuals or groups ought to pursue. But any such theory also needs to make clear how it differs from, even when it coincides in moral judgment with, bodies of moral teaching self-identified as part of a divine revelation addressed to everyone. It also needs to show how truths of natural law provide grounds for rejecting, as well as for accepting, particular human claims to be the bearer of such a universal revelation. Parts I to III below address these issues through a critical examination of some contemporary philosophizing which, while acknowledging the warranted universality of the predicate “is true,” withhold that predicate from the principles of practical reason. Parts IV and V address another aspect of universality and particularity about which natural law theory needs to get clear: how the moral norms of natural law, properly as universal as human nature and the community of all people and peoples, nonetheless warrant unyielding loyalty to specific communities, above all one’s country and one’s marital family.

## I

When *Truth and Truthfulness: An Essay in Genealogy* was published in 2002, Princeton University Press described its author Bernard Williams as Britain’s greatest living philosopher, and today, five years after his death, the biography at Wikipedia begins with the thought that he was “the most important British moral philosopher of his time.” The last philosophical publication of my own mentor in Oxford, H.L.A. Hart, was a penetrating review of Williams’s *Ethics and the Limits of Philosophy*. Both men had studied philosophy in what was then the Oxford way: first Plato and Aristotle, firsthand, by close and critical argumentation, and only then the Enlightenment and the moderns. Each of them, though Williams much the more extensively, gave whole lecture courses on Plato; though unusually familiar with the origins of our philosophy, each of them can be taken as representative of the methods and opinions characteristic of philosophy as it is being practiced among us today. In that review of Williams’s 1985 book, Hart endorsed Williams’s opinion that ethics and morality have no rational foundations: for some “thick” ethical predicates—such as “is courageous” or “was cruel”—a particular culture has defined what facts make it correct, within that culture, to predicate courage or cruelty of some person, deed or

disposition; but there are no more general, or universal, truths in ethics, nor any moral truths about what is obligatory or right or wrong.<sup>1</sup>

The “project” of Williams’s 2002 book is announced in these terms: “to see how far the values of truth could be revalued, how they might be understood in a perspective quite different from the Platonic and Christian metaphysics which had provided their principal source in the West up to now.”<sup>2</sup> The occasion for the “revaluation” of the “values of truth” is what Williams calls the “pervasive suspicion about truth itself...[and about] whether we should bother about it,” a suspicion that is “very prominent in modern thought and culture.”<sup>3</sup> And so the book begins with a fairly vigorous and successful brief deployment of what is, though Williams does not say so, the classical dialectic against skeptical deniers of the existence (and therefore the value) of truth,<sup>4</sup> the dialectic which unfolds by showing how such denials refute themselves, rely upon what they deny, “peck... into dust the only tree that will support them.”<sup>5</sup> The later chapters follow a method that Williams ascribes essentially to David Hume, and involve both imaginary and historical genealogies intended to show how “very basic human needs and limitations, notably the need for cooperation,”<sup>6</sup> are such that “every society not only needs there to be dispositions of [the] kind [summed by Williams as the virtues of Accuracy and Sincerity] but needs them to have a value that is not purely functional [but rather is intrinsic].”<sup>7</sup> And in this argumentation, which is indeed, as Williams says, “an example of philosophy,”<sup>8</sup> there is embedded the striking and reiterated thesis that “[t]he concept of truth itself—that is to say, the quite basic role that truth plays in relation to language, meaning, and belief—is not culturally various, but always and everywhere the same.”<sup>9</sup> Everybody everywhere already has a concept of truth, indeed, they all have the same concept of truth.<sup>10</sup> (The fact that they may have very different theories

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1. See Finnis, “On Hart’s Ways: Law as Reason and as Fact,” *American Journal of Jurisprudence* 52 (2007): 25-53, 47-50; also in *The Legacy of H.L.A. Hart: Legal, Political and Moral Philosophy*, ed. Matthew Kramer, Claire Grant, Ben Colburn and Antony Hatzistavrou (Oxford: Oxford University Press, 2008).

2. Bernard Williams, *Truth and Truthfulness* (Princeton: Princeton University Press, 2002), 18.

3. *Ibid.*, 1.

4. See *ibid.*, 5.

5. *Ibid.*, 19.

6. *Ibid.*, 38.

7. *Ibid.*, 42, with 44 and 59.

8. *Ibid.*, 39.

9. *Ibid.*, 61.

10. To avoid misunderstandings, note that *this* sense in which “truth is a universal concept,” while important to an understanding of human capacities, is of less interest to the questions considered in this paper than a sense which is quite different (even though it presupposes the

of truth just shows how much people's theories of truth misrepresent their grasp of the concept.")<sup>11</sup> For instance, "all human beings everywhere have understood that some statements about what has recently happened (for instance, what has *just* happened) are true," "simply true."<sup>12</sup> And this universal concept involves thinking of truth as valuable:

Genuinely asking a question, wondering how things stand, I aim at a true answer. Assertions can be assessed for truth, and they would not be assertions if they could not. The assessment of beliefs and assertions as true is a favourable one ... to that extent we can see that truth must be regarded as a value.<sup>13</sup>

Just to *what* extent, truth is a value—whether it is of intrinsic value for its own sake—Williams leaves to later. For the moment let us stay with his dialectical critique of skepticism.

Part of it is an effort to minimize the skepticism of Friedrich Nietzsche, for whose ethical positions Williams had much sympathy, but whose wider positions many of the post-modern deniers "take... to be that we should give up on the value of truth altogether."<sup>14</sup> Williams quotes late writings of Nietzsche to show that, even at "the very end of his active life," he was dedicated to "the value of truthfulness [, which] embraces the need to find out the truth, to hold on to it, and to tell it—in particular, to oneself."<sup>15</sup> Williams's estimate of Nietzsche's dedication makes light of the counter-evidence afforded by Nietzsche's own frivolous playing, quite truculent about self-contradiction, with "the value of truth" (Nietzsche's phrase before Williams) in the third part of *On the Genealogy of Morals* (1887),<sup>16</sup> the work

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universal human capacity to understand and predicate "is true"), namely, that it is a "mark of truth," one which we advert to when we understand that to assert that "*p* is true" is to imply one's belief that under ideal epistemic conditions everyone would concur in that judgment: see the discussion of David Wiggins's explorations of truth, in Finnis, *Fundamentals of Ethics* (Oxford and Washington, DC: Oxford University Press and Georgetown University Press, 1983), 63-6.

11. Williams, *Truth and Truthfulness*, 163. See also 276: "the richness and complexity of the archaic [Greek] truth vocabulary does not mean that the concept of truth, as we would recognize it, is absent. Indeed, it is only in the light of its presence, the fact that people in this culture stated things as true, questioned whether they were true, passed them on as true, and so on, that we can understand what this rich vocabulary means."

12. *Ibid.*, 160.

13. *Ibid.*, 84. Williams proceeds immediately to insist that this leaves entirely open the question whether telling the truth is a value.

14. *Ibid.*, 13.

15. *Ibid.*

16. See Finnis, "Retribution: Punishment's Formative Aim," *American Journal of Jurisprudence* 44 (1999): 91-103, 94.

from which Williams takes both the subtitle of his book on truth and the name (and not merely the name) for the method of his project.

And takes, indeed, his project itself. For Williams says it was Nietzsche's project, to which he, Williams, will "in this book... try to contribute."<sup>17</sup> The reason why Williams's statement of the project refers to "the Platonic and Christian metaphysics" is found in the passage he had just quoted from Nietzsche:

[I]t is still a *metaphysical faith* upon which our faith in science rests ... even we knowers of today, we godless anti-metaphysicians, still take *our* fire, too, from the flame lit by the thousand-year-old faith, the Christian faith which was also Plato's faith, that God is truth; that truth is divine.<sup>18</sup>

"Truth is divine" is a too high-flown and opaque formula for something that Plato takes care to articulate more soberly and intelligibly in the parts of his dialogue *Republic* that Williams discusses more than once in *Truth and Truthfulness*. These are the parts whose centre is the great parable or *eikon* of the Cave in which one man is suddenly freed from a chained-up group who have all spent their lives looking at the shadows cast on the cave's back wall by artifacts which, unknown to the prisoners, are being carried back and forth between the prisoners and a fire which is burning far above and behind them, much nearer the cave's entrance. The man freed is turned around and made to look first at the fire and then compelled to make his way right up to the cave's entrance and into the sunlight. There he sees for the first time the light of the sun, ultimate source of the shadows, the fire and artifacts that cast those shadows, and of the moon and stars outside the cave—cause, that is, of everything that this man and his fellows had ever seen (in any sense of seen).<sup>19</sup> And then Plato has Socrates make the decisive affirmation that is the point of the whole parable: just as the sun stands to sight and visible things, as source of their visibility but also of their coming to be, growth, nourishment, so "the good itself," the very "Form of the Good," stands to understanding and intelligible things, as source of the being (reality) of what we understand and source of all our understanding of it.<sup>20</sup> "What gives truth to the things known and the power to know to the knower is the Form of the Good [*tou agathou*

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17. *Truth and Truthfulness*, 18.

18. *Truth and Truthfulness*, 14, quoting Nietzsche, *The Gay Science* [1882], trans. Josefine Nauckhoff (Cambridge: Cambridge University Press, 1994), 344.

19. *Rep.* VII.514a-517b, esp. 516c with VI.508b-509b.

20. *Rep.* VI.508b.

*idean*]" (one might say, to capture this use of "Form," the very archetype of all goodness and reality).<sup>21</sup>

Now it is true that Plato sometimes—for example in the very next sentence—exaggerates the difference between what is purely intelligible, like geometry, and the empirical, material things that are "mixed with obscurity" because they come to be and pass away. Aristotle had reason to insist more steadily on the extent to which material things are intelligible through the *forms* that are *intrinsic* to them. In doing so, he was only drawing out what Plato himself plainly implies in his last dialogue, *The Laws*, when he discusses the natural, empirical world as a domain not of mere brute fact and chance but of the art and providence of "God who is supremely wise, and willing and able to superintend the world,"<sup>22</sup> a world of beings whose movements are saturated in intelligibility, "the cause of their changes lying within themselves."<sup>23</sup>

But to Williams, though he is credibly reported to have regarded Plato as the greatest of all philosophers, the theses Plato was intimating with the Sun and the Cave are thoroughly objectionable. (i) Plato's "account of the Form of the Good in the *Republic*" associated truth with goodness in a way which represents them as "altogether prior to a human interest in them," indeed as "in themselves entirely independent of our thoughts and attitudes,"<sup>24</sup> so that (ii) Williams "can only suppose, with Nietzsche, that such views, precisely in their obliteration of human interests, must be an expression of human interests"<sup>25</sup> (by which Nietzsche meant, of course, discreditable, twisted human interests such as self-lacerating guilt, malicious entrapment of the strong by the slavish, resentful weak, and so forth: the shameful, deflating genealogy of conscience and morality itself). (iii) To understand the intrinsic goodness of truth we should "consider only certain human attitudes toward the truth, people's dispositions to discover it and express it," so that our inquiry has "a naturalistic outlook" and so "should be seen as an exercise in human self-understanding."<sup>26</sup> It is only relative to such attitudes and dispositions which people happen to have that we can speak of human "needs";<sup>27</sup> calling a need "basic" and "human" does not override this relativity to *desire*.<sup>28</sup> (iv)

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21. *Rep.* VI.508e.

22. *Laws* X.902e-903a.

23. *Laws* X.904c; the argument unfolds from 888e to 905d. And see *Rep.* VII.530a on "the craftsman of the heavens" who "arranged [the stars and their motions] and all that's in [the heavens]."

24. *Truth and Truthfulness*, 61.

25. *Ibid.*

26. *Ibid.*, 60.

27. See text at n. 6 above.

28. On the Humean character of Williams's conception of basic reasons for action and of basic values, see John Rawls, *Political Liberalism* (New York: Columbia University Press,

Instead, Plato's "suggestion [with the Sun and the Cave and the *Republic* as a whole] is that real beauty and value are not to be found in this world at all, and that what is here is only some image or association of them; it is as though the world contained a photograph in place of a lover. . . ." <sup>29</sup>

These four claims quite misconceive a text that is foundational for our civilization and among the most important of Providence's preparations for the reception of Christian revelation 400 years later. Take point (iv). There are many good and beautiful things *in* this world, says Plato right here: start the list with knowledge and truth themselves.<sup>30</sup> Their source, what they are due to, is the Form of the Good—the good, divine<sup>31</sup> good—which is more beautiful and more valuable than they or any other good. So when Plato calls knowledge and truth images of *the* good—"goodlike" or "boniform" [*agathoeidē*]<sup>32</sup>—the sense of "image" is very remote from the static, lifeless photograph substituted for the lover. The images *he* is talking about are present particular realities, items, of knowing, rightness, justness, understanding and so forth, each and all being *caused*—authored or "controlled and provided"—by that of which they are likenesses.<sup>32</sup> By treating a photo as the relevant paradigm of an *image*, Williams shows how remote he and many like him have become from what *Genesis* and St Paul hold out to us as revealed: that human persons are each an image and likeness of their divine author,<sup>33</sup> and that indeed, as Thomas Aquinas explains, each created reality is a likeness of God, "approaching that likeness more perfectly if it is not only good but also can act for the benefit of others."<sup>34</sup>

So, though the divine cause is "in itself entirely independent of our thoughts and attitudes," as point (i) asserts, it is considered and discussed by Plato and the whole philosophical and theological tradition precisely as what causally enables us to think (most thoroughly when our thoughts are true) and supports and makes best sense of our attitudes when they are just and right. Even when Plato is most unbalanced in ways that Aristotle and Christianity correct, his account cannot truthfully be said (as point (ii) says) to "obliterate" human interests. His concern, in the *Republic*, with the divine things there

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[1993] 1996), 85 n. 33.; Christine Korsgaard, "Skepticism about Practical Reason," *Journal of Philosophy* 83 (1986) 5-25, 19-23.

29. *Ibid.*, 143 with its endnote at 205. "Elsewhere" than in the *Republic*, says Williams (143), pointing to the *Symposium*, Plato more truthfully suggests that real beauty and value are indeed to be found here in this world "but only in an incomplete, never entirely satisfactory form."

30. *Rep.* VI.508e.

31. See *Rep.* VII.516c.

32. *Rep.* VII.516b ("cause of all that is correct and beautiful in anything").

33. *Genesis* 1: 26-27; *Acts* 17:28; *Colossians* 3: 10; cf. *Romans* 8: 29.

34. Aquinas, *Summa contra gentiles* II, c. 45, n. 2.

envisaged and in some measure affirmed is with their significance as making sense of all the realities with which moral thought and political life are concerned—as providing a model [*paradeigma*] to those persons who “see” these divine things, a model for the putting-in-order of their political community, of its citizens, and of themselves,<sup>35</sup> which these persons are to accomplish, or at least attempt, by sharing in their fellow citizens’ labors, great and small,<sup>36</sup> including their law-making and above all their educative undertakings.<sup>37</sup>

So, as to point (iii), Plato will say that a truly “naturalistic” attempt to understand truth and knowledge will indeed be “an exercise in human self-understanding” which will only go well if it relates and extends self-understanding both to its sources, more and less remote, and (even before that) to the *objects* of human understanding. I have started with these difficult matters of divine causality and its dependent images and analogues because Williams’s uncomprehending dismissal of them helps explain the oversights which facilitate the subjectivism or scepticism of his ethics, the ethics of so many whose truncated, “naturalistic,” self-understanding is that of “we knowers of today, we godless anti-metaphysicians.”

## II

“The values of truth,” for Williams are “Sincerity and Accuracy,” which he everywhere calls “virtues of truth.” Here I shall say nothing about Sincerity, and look only to Accuracy. It is a great intellectual virtue. But, as Williams never recognizes, it is necessarily a secondary element in the disposition or desire to have true beliefs. More primary is curiosity, the desire to learn, to find out.<sup>38</sup> And most primary is the insight that knowledge is a good, pursuit-worthy for its own sake, and ignorance—not just error but also and more fundamentally *ignorance*—is something to be avoided. Having this insight is in every way prior to, and foundational for, intellectual virtues such as accuracy. And it is an insight we gain, not by reading books which like Aquinas’s discourse on natural law identify this insight’s content as a first and self-evident principle of practical reason and natural law, but by advancing from our own experience. What experience, and what advance?

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35. *Rep.* VII.540a.

36. *Rep.* VII.519d, 520d.

37. *Rep.* VII.519e and 518b-c, 521c, 525b-c, 526e, 532c, 540a-c.

38. And so Aristotle puts this first, in the opening sentence of the *Metaphysics* I.1: 980a21.



As children, we ask questions, and they get answered.<sup>39</sup> Answers suggest further questions, which in turn elicit answers we can understand as *answers*, that is, satisfactory responses to the questions. At a certain point there comes a step-change in our understanding; noticing how the answers hang together, we have the insight that together they constitute *knowledge*, that, in other words, our belief in these answers is justified and *what* we believe is *true*. It is part of the same insight that future answers to future possible questions will be further elements in this open-ended field, knowledge. So the core of the insight is that knowledge, our coming to know what up to then we did not know, is *possible*. This insight is not a deduction; in that sense it is not reasoned to, though it is grounded in the lived experience of (a) puzzling experience, (b) pertinent question and (c) satisfying answer confirmed or at least not disconfirmed by experience. This insight, which becomes foundation and framework for many other insights and trains of reasoning, is itself a first, one of a number of such firsts, as we shall see. And usually, in the history of one's intellectual development (our biographies), this primary insight is accompanied or closely followed by another insight, equally in its own field a first, not a conclusion of any reasoning from deeper premises: the insight that knowledge is not simply a possibility but an *advantage*—a desirable, *beneficial* possibility, a good thing, a kind of benefit, a way of being that is better than being ignorant: one is better-off than if one's questions remained unanswered. And this kind of possibility is understood as sometimes beneficial even when no further or other purpose seems to be served, or even capable of being served, by gaining it. This first principle of practical reason, that knowledge is beneficial—a good that is worthy of pursuit, that is, in other words, *to be pursued*—is foundation (*principium, archē*) and framework for practical thought about how to make good on the opportunity, how to realize or actualize (achieve) it. The core of this thought is already normative: “is to be pursued” means ought to be pursued, in a sense of “ought” that is not yet moral (though it is incipiently moral). The desirability of this good, and sometimes attainable, possibility is the source of this normativity.

In this insight, one understands the advantage of knowing as good both *for me* and for anyone *like me*, anyone who like me asks or can or could ask questions—the girl or boy in the next desk, for example, or, come to think of it, girls or boys anywhere. As I say, this is not yet moral thinking. The

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39. Here we could say a good deal more about the way in which (i) the answers given us (“It’s hot! Careful!”) are sufficiently often verified by our experience of or credible reports of confirmatory events or phenomena, and (ii) our belief in these answers is shown to be justified by those answers’ coherence with each other and with the available answers to any further relevant questions, and (iii) this in turn lends credibility to other answers from the same or similar sources.

normativity is not yet of the form “they ought to be seeking knowledge,” or “I ought to be helping them overcome their ignorance or confusion,” but it is an understanding, a recognition, that as I’m better-off overcoming my own ignorance so they are better-off overcoming theirs.<sup>40</sup>

That understanding can promptly be reinforced by another: it is good for each of us if we are in such a relationship to each other that each wants the other to be better-off, and finds some satisfaction or even joy in the other’s (or others’) success (say, in overcoming ignorance or confusion). This further insight, in other words, is that this sort of state of things between us really is better than the state of things which obtains when each is coldly indifferent to the other’s (or others’) success or failure, or when each of us wants the other’s misery, as the playground bully wants the misery and humiliation of his victim. Like the insight into the good of knowledge, this further insight is neither a deduction from any proposition, nor a data-free “intuition,” but is harmonious with certain sub-rational inclinations and feelings. Gaining the insight stands, however, as a step-change in one’s perception of reality and its possibilities, possibilities now understood as advantages and benefits and opportunities pursuit-worthy for their own sake. The intelligible good which is the object (subject-matter) of this further insight we can label the good of friendship, taking that term in its widest extension along the wide spectrum of relationships, from concern to protect a passing stranger from imminent peril in the mountains all the way to the many-sided, stable and loving friendship of good and true friends.

The good of friendship is a *common* good, not simply my good to which yours is good only as a means, nor your good to which mine is good only as a means, but the good of our each flourishing in and by concern for and promotion of the other’s wellbeing for its own sake *and* for the sake of both of us. Each instance of this sort of particular common good, whether it involve two persons only or many more, is an instance of a universal human opportunity, advantage, benefit: friendship. And the intelligibility of this kind of common good both exemplifies and reinforces the intelligibility of each of the other kinds of universal opportunity, each of the other aspects of human wellbeing. For there are other aspects of human wellbeing, other basic reasons for action, besides the two aspects and reasons I have been speaking of, knowledge and friendship. There is, for example, the intelligible good of

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40. As one learns that knowledge can be disturbing or distracting, and that many things are hardly worth knowing, one does not conclude that knowledge is not a good in itself, or good only for its utility as a means to satisfying other desires; rather, one concludes (or should conclude) that its bad side-effects can be guarded against and/or worked-around, and that knowledge which is strategic or fundamental is to be pursued in preference to trivialities that may arouse curiosity or win a game.

human life and health itself, and there is the good of transmitting human life as parents of the offspring generated by that specific and specifically procreative friendship, the marriage of husband and wife, committed to being each of their children's father and mother, jointly progenitors, educators and in due measure lifelong companions.

The reasons which all these and the few other basic human goods give for action cut across Bernard Williams's famous distinction between internal and external reasons. For of all and each of them it is right to say that it would give *reason* for action even to a person who happened to lack all (motivating) responsiveness to it, all "subjective motivation" to pursue this kind of benefit, and even if such responsiveness to this kind of benefit could not be "rationally arrived at"<sup>41</sup> from that person's existing motivations.<sup>42</sup> Williams's arguments against (what he calls) external reasons arbitrarily assume that there can be no originating practical insight into the intrinsic advantage (benefit, opportunity—intelligible good) offered by some kind(s) of possibility that experience and (non-practical) understanding show to be attainable; these arguments thus ally themselves with the unwarranted Humean dogma that reasons as such cannot motivate. That dogma is inattentive to the variety of kinds of reasons there are, and equally inattentive to the central human reality of human will as one's capacity to respond to, be motivated by, the intelligible goods one understands, including goods understood as good for their own sake and not only as means to something else, goods identified in the basic reasons for action,

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41. "Internal and External Reasons" in Bernard Williams, *Moral Luck: Philosophical Papers 1973-1980* (London and New York: Cambridge University Press, 1981), 109. On the distinction, see generally sec. 4 of Timothy Chappell, "Bernard Williams," *The Stanford Encyclopedia of Philosophy* (Spring 2006 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/spr2006/entries/williams-bernard/>>. A reason that fits the description given summarily in this sentence of my text is, in Williams's terminology, "external" (and in his view impossible). Williams's point (i) (*Truth and Truthfulness*, 61), complained, in effect, that Plato treated the forms of the good as external reasons. For a decisive critique of Williams's categorization of reasons as internal or external, see Korsgaard, "Skepticism about Practical Reason."

42. Here I part company with the critique of Williams's internal/external reasons arguments which is advanced by Christopher Tollefsen, "Basic Goods, Practical Insight, and External Reasons," in *Human Values*, ed. David Oderberg and Timothy Chappell (Basingstoke: Palgrave, 2004), (and later entertained also by Chappell, "Bernard Williams") just in so far as Tollefsen relies on the position (which is Aquinas's) that "the starting points of correct deliberation are shared by all agents—the basic goods, plus the recognition of well-being as the point of action." I do not doubt that this thesis is true of all agents of sufficient intelligence and maturity. But I think it better not to try to explicate what a practical reason is by appealing to a fact such as universal sharing of starting points. Basic goods and reasons for action are *intelligible*, without reasoning, given only the experience and non-practical understanding of possibility which are *available* to virtually everyone.

reasons accessible to everyone able to deliberate and choose. It should be obvious that even though nothing is a practical reason if it could not motivate a rational person, and though no-one is rational who lacks the capacity to be motivated by reasons, it by no means follows—nor is it the case—that such reasons do motivate everyone (or even anyone) on all occasions when they might have; or that there is no-one who lacks the capacity to be motivated by such reasons.<sup>43</sup>

Ethical thought, morality itself, has as its shaping object the good of being directed in all one's choices and actions by the basic reasons for action, undeflected by sub-rational motivations that would, without reason, cut back on the directiveness of each and any of those basic reasons. That good of practical reasonableness has as its propositional core the master principle of morality (or ethics): that one have a will open to integral—one could say universal—human fulfillment, the fulfillment of all human persons and groups. Specific moral *principles*, such as the Golden Rule, have their intelligibility and force as specifications of that master principle: for example, just as one cannot have a will open to integral human fulfillment if one is willing to inflict harm on others for the sake of harming them, so one cannot have such a will if one is willing to do to others what one is not willing for others to do to you. More specifically still, moral *rules* pick out ways in which, for example, kinds of choice are wrong because, for example, such a choice intends the destruction, damaging or impeding of a basic human good in the life of one or more persons. Moral rules thus picking out kinds of act that are exceptionlessly wrong identify those acts by their objects, that is their close-in objectives, not by reference to their consequences or other circumstances. Such rules are thus exceptions to the generalization<sup>44</sup> that moral reasoning becomes less certain as its propositions descend from high-level universal principles towards specific conclusions about particular options available in complex and imperfectly foreseeable or controllable circumstances. There are plenty of principles or rules identifying more or less specific affirmative responsibilities, but the relatively few exceptionless moral

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43. The points made in this sentence are well made, against Williams, by Korsgaard, "Skepticism about Practical Reason," 11-25. See further Christine Korsgaard, "The Normativity of Instrumental Reasons," in *Ethics and Practical Reason*, ed. Garrett Cullity and Berys Gaut (Oxford: Oxford University Press, 1997), 215-54; Finnis, "Foundations of Practical Reason Revisited," *American Journal of Jurisprudence* 50 (2005): 109-31, 112-18, adopting Korsgaard's critique of Humeanism but criticising her Kantian failure to move decisively beyond Humeanism, a failure to attend to the practical reasons which direct us to basic human goods besides practical reasonableness, goods such as knowledge, life and friendship.

44. See Aquinas, *Summa Theologiae* 1-2 q. 94 a. 4c; Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998), 90-91.

rules are all negative, identifying kinds of option always to be excluded from one's deliberations.<sup>45</sup> Wherever those inevitably wrong kinds of option bear on the acting person's relations to another person or persons, those same exceptionless negative norms, rules or precepts pick out the content of a human right that is not only inalienable but also (to use the terminology of the European Court of Human Rights)<sup>46</sup> absolute, such as the right not to be tortured.<sup>47</sup>

The moral truths I have been recalling in these broad brushstrokes are a main part of what Bernard Williams called "the morality system," which—in the book that Hart reviewed—he labeled scathingly "the peculiar institution" (a euphemism once used in the American South to refer defensively to slavery). Morality has, on Williams's account of it, nine or ten defining features, each of which he attacks; his main criticisms have been assembled from his writings by Timothy Chappell, in the Stanford Encyclopedia of

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45. Affirmative moral rules, identifying choice-worthy kinds of option, apply *semper sed non ad semper* (always relevant but not in all circumstances to be chosen); only negative moral rules can be *semper et ad semper* (always relevant and in all circumstances to be followed). The exclusion of inevitably wrongful options will characteristically, if not always, leave open more than one option for choice, even if only the option of taking no action. See *Aquinas*, 163-4.

46. See e.g. *Saadi v. Italy*, Appl. No. 37201/06. Council of Europe: European Court of Human Rights, 28 February 2008. However, this unanimous decision of the Grand Chamber runs together an absolute prohibition (exceptionless norm) with an absolute duty not to do anything that might (as a matter of real risk) result in someone else violating that prohibition (or the equivalent exceptionless moral or natural-law norm). That is, it obliterates the distinction between intended results and side-effects which has been found necessary for the coherence of sets of moral teachings which include exceptionless (absolute) negative norms: see Finnis, *Moral Absolutes: Tradition, Revision, and Truth* (Washington, DC, The Catholic University of America Press, 1991), 67-74. The rule adopted in the case may be defensible on its merits (e.g., by a *Miranda*-like policy argument), at least in relation to "torture" as distinct from "degrading treatment," although in relation to deportation where there is a risk of later torture but no shadow of intent to subject the deportee to that risk or of collaboration with the potential torturers, the non-absolute rule in *Suresh v. Canada* [2002] 1 S.C.R. 3, 2002 SCC 1 (Can.), at para. 78 seems preferable. What is certain is that the rule in *Saadi* is not defensible as an interpretation of the Convention's intended meaning or as an exposition of the logic of the interpretative gloss-term "absolute." In terms of the last paragraph of the section "Absolute Rights" in my *Natural Law and Natural Rights*, 225-6, the Court's argumentation (if not its conclusory ruling) confuses a two-term with a three-term right.

47. *Natural Law and Natural Rights*, 224. For the derivation of a philosophically defensible natural (human) right not to be tortured, identifying with some precision the kind of act that counts as torture in warranted assertions of this right, and relating the right to basic human goods, see Patrick Lee, "Interrogational Torture," *American Journal of Jurisprudence* 51 (2006): 131-147.

Philosophy,<sup>48</sup> and you can see how strong in rhetoric and weak in refutatory force they are. Most if not all of them simply *assume* the absence of any substantive first principles of practical reason (and thus of moral reasonableness), such as are provided by the basic reasons for action that direct us towards realizing the basic human goods in our own life and the lives of others. In this assumption, nowhere (so far as I know) examined by Williams, he shares the same utter detachment from and apparent unawareness of the mainstream tradition (exemplified by Aquinas) as is displayed by Hobbes, Locke, Hume, the Utilitarians, Kant and accordingly by most of yesterday's and today's English-speaking philosophers. But equally—I have been suggesting—what is missing is sufficient reflective awareness of certain primary workings, and the foundational content, of the practical understanding and reasoning available to all of us and manifested at least unreflectively in the life of everyone who more or less rationally chooses. These substantive first principles, directing us to substantive goods such as life, knowledge, friendship, and so forth, provide genuinely “thick” practical predicates between the wholly abstract or formal predicates “ought,” “right,” and “good” and such morally laden and circumstance- and culture-relative predicates as those Williams called thick (courage, cruelty and the like). But so far as I can see these first principles and basic goods and reasons for action don't get a mention, or a thought.

### III

Plato's work, not least the part I have mentioned, seemed to Christians in the first few centuries of our era to be highly convergent with what the revelation they believed to have been completed in Christ disclosed about God's existence, nature and will—so convergent that some hypothesized meetings or other communications between Plato and the prophet Jeremiah. St. Augustine eventually concluded, in 416 A.D., that accurate computation of dates precludes that particular connection.<sup>49</sup> But he was deeply impressed by the way in which Plato and his successors (first among them Aristotle) went through and beyond natural science, epistemology and ethics to a knowledge of God as cause of the organized universe, source of the light by which truth is perceived, and spring of human happiness and fulfillment.<sup>50</sup> Augustine wavers between thinking that Plato must have had some acquaintance with Israel's sacred books, and thinking that the sound parts of

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48. Chappell, “Bernard Williams.”

49. Augustine, *De Civitate Dei* 8.11.

50. Ibid.

Plato's teachings about divine and human existence and goodness were made known to the philosopher by God in that broad sense of "revelation" which Paul puts near the beginning of his letter to Rome: "what can be known about God has been *manifested* among them; in fact God has *manifested* it, for his invisible realities, indeed his power and divineness, have from the [time of] the world's creation"—that is, universally—"been made visible to [human] understanding through his created works."<sup>51</sup> To which Paul adds, on the next page, "when nations that do not have the Law [revealed to Moses and the prophets of Israel] nevertheless do by nature what the Law [summed up in the Ten Commandments] requires, they...show that what the Law requires is written on their hearts, to which their conscience testifies."<sup>52</sup> Here "heart" and "conscience" refer to the same reality—the activities of human reason—which the earlier passage called "understanding."

The "Revelation" in this paper's title is that body of teachings that identifies itself as transmitted by God to a particular people by the series of intermediaries we call Moses and the prophets and completed by all that Jesus of Nazareth said and did as witnessed and witnessed to by his apostolic disciples. It is a faith—a body of teachings and practices—which affirms that its foundations are established (*demonstr[ata]*) by reason,<sup>53</sup> that its accounts of the life and deeds of Jesus are true, sincere, *historical* in character even while keeping to the style of preaching,<sup>54</sup> and that the moral precepts it teaches are valid for all people everywhere and accessible to everyone's understanding and fully rational acceptance. In relation to those truths of faith (including moral truths) which are knowable by reason without revelation and faith, what divine revelation does is enable them to be known in a way which surpasses unaided reason in accessibility, certainty, and freedom from error.<sup>55</sup>

Morality (if you like, ethics and conscience) precedes faith in two important ways. It is by love of truth—by that responsiveness to the desirability of knowledge which I was recalling a little earlier—that one (anyone) is moved to ask questions about the source of the world's existence, and of its astounding processes of orderly evolution and its stably and thus scientifically accessible orderliness, and to seek a really adequate explanation for these overarching realities of existence and orderliness as well as for the more specific realities studied by science and history. The moral obligation to seek such knowledge, or at least to be receptive to it when it comes one's way, and

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51. *Ibid.*, 8.12; Romans 1: 19-20.

52. Romans 2: 14-15.

53. Vatican I, *Dei Filius* (Dogmatic Constitution on the Catholic Faith) (1870), c. 4 (D-S 3019): foundations, but not its whole content (D-S 3041).

54. Vatican II, *Dei Verbum* (Dogmatic Constitution on Divine Revelation), sec. 19.

55. *Dei Filius* c. 2 (D-S 3005).

in either case to act upon what one has rationally judged to be true, turns out to be a compelling motivation to acceptance of a revelation whose content in part confirms reason's findings but in part far exceeds, without contradicting, what can be known by reason unaided by revelation. So this obligation is a part of *natural* morality, prior to religious faith.<sup>56</sup>

And ethics precedes faith in a second way. Revelation, in the sense I am concerned with, has been conveyed by particular human persons, most notably by this Jesus. The necessary judgment that he, his forerunners, and those who preached and wrote about him were persons of truth and not impostures, is a judgment with various foundational elements, not least—as Aquinas's review of these elements makes clear—his and (in more mixed ways) their manifest personal virtue and the inherent excellence of the way of life he proposes to us.<sup>57</sup> A prophet whose message is mixed with self-serving permissions for acts of lust, hatred and vengeance thereby not only rivets immorality, injustice and intimidatory menace into the permanent content of any faith he (or she) founds, but also shows his (or her) message to be unworthy of belief.<sup>58</sup> (And here it is worth recalling that in the teaching of the community of faith founded by Christ, public revelation is closed with the age of the apostles, so that “no new public revelation is to be expected” thereafter,<sup>59</sup> a teaching of faith which entails that any later proclamation of a subsequent revelation proposed to all must be taken to be a delusion or an imposture.)

Revelation, then, is a remarkable evidencing of truths universal in their significance and application to all human persons, by really particular, unrepeatable historical events and choices. To the reasonable assessment and appropriation of these evidences, philosophy, however soundly done, can be no more than a preparation and then an ancillary means, among others, of clarification, and of some conceptual contributions to “the growth in understanding of the words and realities handed on [by *traditio*] from the apostles.”<sup>60</sup> This process of handing on involves the adoption of the revealed truths into particular human cultures which it more or less reforms but does not obliterate. Some elements of the reform are in themselves cultural, for some elements of revelation are themselves cultural, that is, the product of human choices that could morally have been rightfully different. The paradigm of an element which is in this way both cultural and universal is the

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56. As is stated in Vatican II, *Dignitatis Humanae* (Declaration on Religious Liberty, 1965), sec. 2.3.

57. See Aquinas, 320–21. Other leading elements in Aquinas' list are the miracles worked by Christ, and the self-sacrificial heroism of his apostles and other witnesses.

58. See Aquinas, *Summa contra Gentiles*, I, c. 6.

59. *Dei Verbum*, sec. 4.

60. *Dei Verbum*, sec. 8.



Lord's Prayer (*Pater Noster*...Our Father), established by the choice of a particular human individual and referring, as it does, to a cultural artifact (bread) that is not inherent in the natural world, not required by reason, and not universal.

The two-way inter-dependence between revelation and reason includes this: that the *moral* precepts of the Catholic faith are understood by the Church as—and indeed are—*also*, at the same time, truths of public reason, accessible to any reasonable person even if and when *de facto* widely rejected. Like the rational preambles to faith, such as Plato's, Aristotle's, or Aquinas's proofs of the existence of God,<sup>61</sup> or the refutation of Hume's sophistries about the possibility and knowability of miracles,<sup>62</sup> these ethical positions and their political applications are matter for open public debate, to be proposed and defended as defensible and acceptable without appeal to the authority of revelation or its author. Those believers who accept them simply on faith, lacking the ability, education or leisure to appropriate them by unaided reason, can reasonably rely on them in making political decisions, without needing to appeal to the "Proviso" that John Rawls belatedly introduced into his "liberal" but highly restrictive theory of public reason when he said we can appeal to religious considerations "provided that, *in due course*, we give [what he calls] properly public reasons to support the principles and policies our [religious] doctrine is said to support."<sup>63</sup> Christians of the central tradition do not have to hope that "in due course" such public reasons will become available; if a moral teaching is proposed as a matter of doctrine in their tradition, public reasons both including and supportive of that very position are already available.

The position I have just stated is part of the general position about revelation that it clarifies and confirms God-related propositions and judgments of reason, including moral/ethical judgments about the good for human persons. And this, at least in anticipatory outline, is what is suggested by Plato's philosophical thesis that perception of the divine archetype and cause of all human good enables those who have that perception—that glimpse of understanding—to judge better about the issues of individual, social and political life.

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61. On the main lines of some of the many proposed by Aquinas, see *Aquinas*, 298-304.

62. See e.g., "Hume on Miracles," *Faith in a Hard Ground: Essays on Religion, Philosophy and Ethics* by G.E.M. Anscombe, ed. Mary Geach and Luke Gormally (Exeter, U.K., and Charlottesville, VA: Imprint Academic, 2008), 40-48; Finnis, "Historical Consciousness" and *Theological Foundations*, Etienne Gilson Lecture No. 15 (Toronto: Pontifical Institute of Mediaeval Studies, 1992).

63. John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 144.

## IV

If practical reason finds its master moral principle in the ideal of integral or universal human fulfillment, and if the revelation I have been discussing identifies and is transmitted in a universal (that is, “catholic”) human society (“the new and universal Israel”)<sup>64</sup> whose teachings include the proposition that all created sub-personal goods or resources have a “universal destination,”<sup>65</sup> and if both reason and this religion endorse the contemporary moral-political consensus articulated in the Universal Declaration of Human Rights (1948), the question fairly arises: What should we think about “universalism” in political theory, and about “cosmopolitan” duties of justice? Those are labels for the thesis that whatever duties of and rights to assistance we owe to our neighbors (say, our fellow citizens) must be owed in equal measure to all persons everywhere. How might that thesis be applied? Take just one of the many ways in which that question might be posed:<sup>66</sup> Is it ever right to discriminate (distinguish in treatment) between persons, at our borders, because this person is a national, a citizen, and therefore may certainly enter, but that person is not and therefore may perhaps not?

That question was approached independently and with varying explicitness addressed, in 1993, by two persons, Karol Wojtyla and John Rawls, who had each reflected long on inter-personal ethics; and each later wrote up and published his response. In his *Memory and Identity*, appearing within two weeks of his death in 2005, Wojtyla says: “The term ‘nation’ designates a community based in a given territory and distinguished from other nations by its culture. Catholic social doctrine holds that the family and the nation are both natural societies, not the product of mere convention. *Therefore, in*

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64. John Paul II, *Memory and Identity* (London: Weidenfeld and Nicolson, 2005), 81.

65. *Catechism of the Catholic Church*, under the heading “The universal destination and the private ownership of goods,” says (sec. 2402): “In the beginning God entrusted the earth and its resources to the common stewardship of mankind to take care of them, master them by labor, and enjoy their fruits. The goods of creation are destined for the whole human race. However, the earth is divided up among men to assure the security of their lives, endangered by poverty and threatened by violence. The appropriation of property is legitimate for guaranteeing the freedom and dignity of persons and for helping each of them to meet his basic needs and the needs of those in his charge. It should allow for a natural solidarity to develop between men. 2403: The right to private property, acquired by work or received from others by inheritance or gift, does not do away with the original gift of the earth to the whole of mankind. The universal destination of goods remains primordial, even if the promotion of the common good requires respect for the right to private property and its exercise.”

66. See the three papers cited *infra* n. 81, and see n. 77 on the most grave and searching question for contemporary political theory.

*human history, they cannot be replaced by anything else.*"<sup>67</sup> The right way of avoiding unhealthy nationalism is, he says, "through patriotism. Whereas nationalism involves recognizing and pursuing the good of one's own nation alone, without regard to the rights of others, patriotism...is a love of one's native land that accords rights to all other nations equal to those claimed for one's own."<sup>68</sup> For love of one's native land is well grounded:

[T]he native land (or fatherland [*patria*]) is in some ways to be identified with patrimony, that is, the *totality of good bequeathed to us by our forefathers*. In this context ... one frequently hears the expression 'motherland.' Through personal experience we all know to what extent the transmission of our spiritual patrimony takes place through our mothers. Our native land is thus our heritage and it is also the whole patrimony derived from that heritage...the land, the territory, but more importantly...the values and the spiritual content that go to make up the culture of a given nation.<sup>69</sup>

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67. *Memory and Identity*, 77-8 (emphasis added); likewise 75. See also Vatican II, Decree *Ad Gentes* (7 December, 1965), sec. 21: "[Christian lay people] belong to the nation in which they were born. They have begun to share in its cultural treasures by means of their education. They are joined in its life by manifold social ties... They feel its problems as their very own... they must give expression to this [Christian] newness of life in the social and cultural framework of their own homeland [*patriae*], according to the traditions of their own nation, a culture which they should get to know, heal, preserve, develop in accordance with contemporary conditions, and finally perfect in Christ."

68. *Memory & Identity*, 75. For the background in earlier forceful papal teaching on patriotism, see John J. Wright [later Cardinal Wright], *National Patriotism in Papal Teaching* (Westminster, MD: Newman Bookshop, 1943). Wright shows how, in this extended body of teachings, strongly supportive of a not unconditional patriotism, the elements constitutive of the *patria* and the nation are primarily "cultural, historical and religious traditions," with shared language given a certain priority in Wright's exposition, and the shared [love of] "this our native land" firmly included, and the upshot being a certain shared *mentalité*: *ibid.*, 56-66. Wright's arguments (*ibid.*, 28-51) for discounting certain other factors, not least what Rawls (quoting Mill) will list as "race, descent" (see at n. 72 below), are in some tension with his (Wright's) general account.

69. *Ibid.*, 66 (emphasis added). Here and elsewhere Wojtyła refers to and quotes (p. 96-7) from his papal address of 2 June 1980 to UNESCO, especially "concerning the right of the nation to the foundation of its culture and its future... a stable element of human experience and of the humanistic perspective of man's development... a fundamental sovereignty of society which is manifested in the culture of the nation...through which, at the same time, man is supremely sovereign." This was taken up again by Pope Benedict XVI in his address to the bishops of France on 14 September 2008: "I am convinced, in fact, that nations must never allow what gives them their particular identity to disappear. The fact that different members of the same family have the same father and mother does not mean that they are undifferentiated subjects: they are actually persons with their own individuality. The same is true for countries, which must take care to preserve and develop their particular culture, without ever allowing it to be absorbed by others or swamped in a dull uniformity. 'The Nation is in fact'—to take up the words of Pope John Paul II—"the great community of men who are united by various ties,

John Rawls's far-reaching theory of universal justice denies that a justice universal in its reach is cosmopolitan in its content, that all persons everywhere have equal basic rights, entitlements and liberties.<sup>70</sup> Instead it speaks of justice—equal rights, etc.—between peoples, and within each people, but not directly as between all the individuals in the world as if the world were one people.

Rawls uses “a people” to refer to what John Paul II and John Stuart Mill and most people call a nation.<sup>71</sup> Like John Paul II and Mill, he takes shared culture to be central to the reality of a particular people. He analyzes this cultural reality into (a) first, and primarily, the members of this people being “united among themselves by common sympathies which do not exist between them and others,” which (b) “make them cooperate with each other more willingly than with other people,” and (c) may result from various causes, such as commonality of race, descent, language, and religion but “strongest of all is identity of political antecedents...of national history, and consequent community of recollections, collective pride and humiliation, pleasure and regret, connected with the same incidents in the past.”<sup>72</sup> Then he articulates the legitimate fundamental interests of peoples: their political independence and their free culture; the security, territory and well-being of their citizens; and “their proper self-respect of themselves as a people, resting on their common awareness of their trials during their history and of their culture with its accomplishments.”<sup>73</sup>

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but above all, precisely by culture. The Nation exists ‘through’ culture and ‘for’ culture, and it is therefore the great educator of men in order that they may ‘be more’ in the community’ (Address to UNESCO, 2 June 1980, no. 14)” ([http://www.vatican.va/holy\\_father/benedict\\_xvi/speeches/2008/september/documents/hf\\_ben-xvi\\_spe\\_20080914\\_lourdes-vescovi\\_en.html](http://www.vatican.va/holy_father/benedict_xvi/speeches/2008/september/documents/hf_ben-xvi_spe_20080914_lourdes-vescovi_en.html)).

70. See *Law of Peoples*, 82-5. The present article's discussion of Rawls does not touch at all on the question whether he was justified in refusing to extend from the internal arrangements of political communities to the worldwide community of all persons that principle of justice most distinctive of his *A Theory of Justice*, namely the “difference principle,” that all social decisions (at least about the basic structure of society) should improve as far as possible the wellbeing of the worst-off group in the state. Forbidding immigration would be (in principle, and on certain conditions) compatible with accepting the very demanding requirements of a “global difference principle.” But in practice it would require world government, which again *might* not abolish boundaries—but would certainly relativize boundaries as it dissolved all conceptions of nationality as for some purposes decisive.

71. See *Law of Peoples*, v, 23-5.

72. *Ibid.*, 23 n. 17 quoting J.S. Mill, *Considerations on Representative Government* (1862), chap. 16. For Rawls's tentative speculation about how far all these elements are necessary for a just constitutional regime, see *Law of Peoples*, 24-5.

73. *Ibid.*, 34. For the implications of this kind of reality for a “multiculturalist” politics, see my critical engagement with Joseph Raz's essays on multiculturalism (e.g., one cited *infra* at n. 79), in Finnis, “Universality, Personal and Social Identity, and Law,” *Oxford Legal Studies*

Does not the ethical legitimacy of these fundamental interests suffice to legitimate the maintenance of boundaries and the concomitant limitation of (or right to limit) immigration? Rawls does not consider that question. Instead he grounds the right to limit immigration on the Aristotelian argument for the justice of the institution of property, whereby parts of the world's resources including land are appropriated to a particular person or group of persons: the argument that an asset tends to deteriorate "unless a definite agent is given responsibility for maintaining [it] and bears the loss for not doing so."<sup>74</sup>

Rawls is right, I think, to link the justice of boundaries with the justice of property.<sup>75</sup> Property rights—at whose core is the right to exclude others from free use of one's property—are well understood in the main tradition to be qualified both by their purpose of benefiting not merely the owners or other holders but in one way or another the whole community, and by their liability to being overridden in situations of real necessity. But Rawls uses a particularly thin version of Aristotle's argument about the purpose of property systems, an argument made even thinner by Rawls's focus on maintaining the territory "and its environmental integrity,"<sup>76</sup> as if for their own sake rather than for the sustenance and flourishing of those who cultivate it and those within and without who consume its fruits.<sup>77</sup> Only in a footnote does he

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Research Paper No. 05/2008: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1094277](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1094277), part III.

74. *Law of Peoples*, 39; also 8.

75. This is not to say that national territory is best understood as a form of property: see Samuel Freeman, "Distributive Justice and the Law of Peoples," in *Rawls's Law of Peoples: A Realistic Utopia?*, ed. Rex Martin and David A. Reidy (Malden, MA and Oxford: Blackwell, 2006), 243-260, 247-8.

76. *Law of Peoples*, 38-9.

77. Cf. Finnis, "Universality, Personal and Social Identity, and Law," part IV: "Is there a more grave and searching question for a contemporary political and legal theory than this....: Do people (perhaps *the* people, the whole population) of some areas of the world have a right, in justice, to choose to emigrate from those areas and immigrate into another country of their preference—a right such that it would be an injustice for the authorities or people of that other country to refuse to accept them into the territory as at least potential citizens? ... The question is not altogether unlike the question that has always faced the Church in relation to the rich: Does Dives have an obligation in justice to let the poor satisfy their needs or desires by taking from his property as they select? [Luke 6:19-31] Does he have rather an obligation to distribute to the poor, on his own initiative and preferences as owner, all the resources he holds in excess of what he needs to maintain himself, his family and close dependants? Or is he entitled to devote the excess, so defined, to pursuing his professional or skilled vocation, educating his children, supporting the institutions and arrangements appropriate to maintaining the Rule of Law, the advancement of knowledge, architectural and other glories of God, and so forth? Dire emergency and famine aside, may he not treat as *superflua*, dedicated to relief of the poor, *only* what is left after contributing reasonably to these "vocational" good works? Sainly philosophers such as St. Thomas, like the universal church's most authorized pastors and

observe that “another reason for limiting immigration is to protect a people’s political culture and its constitutional principles.”<sup>78</sup> He might very appropriately have brought to bear, right here, his own judgment that a good political culture will itself be dependent on what he calls “common sympathies,” shared by this people because of its shared memories and identity. Such shared sympathies, and the willingness to cooperate that they encourage, he might well have called, with Aristotle, civic friendship or, with John Paul II, solidarity within the framework of patriotism. Modern political experience and reflection suggests that without a real and fairly pervasive sharing of sympathies, nothing short of massive state coercion<sup>79</sup> will suffice to ensure that people’s loyalties to their family and its wealth and other interests are transcended *sufficiently to sustain what we call a welfare state*.<sup>80</sup>

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teachers, have favored the last of these possible answers. The right of a particular political community’s members, acting through its government and law, to exclude from entry or residence all non-members whose residing would directly or indirectly pose a risk to that community’s common good is a right similar in ground and structure to the rights of exclusion and exclusionary use which are central to *dominium* and other analogous rights of property or ownership. Both kinds of right must be understood and exercised compatibly with the truths, first [1] that the Earth belongs to all, and second [2] that it can be and almost universally is reasonable, indeed required by justice, to divide it up and appropriate its material resources and its territories to some for their exclusionary use. For, as to resources: their cultivation and management will be more fruitful in economic and moral goods than if they were tended as common or as publicly owned. And, as to the territories of states: the culture, law and politics carried forward on them will be more human, adequate, and just than if carried on (a) in a context of deep disharmony among their inhabitants and/or (b) where those preconditions for law (and much else) which Raz identified for us [in his essays on national self-determination and on multiculturalism] are not in place or would be negated by the entry of many and different peoples. For, in turn, immigration of such a scale or kind can overwhelm or outrun assimilation, dissipate the general (near unanimous) “sense” (including intelligently willed disposition) of identification with the country, nation, state, government and law that our forebearers built upon this land, and thereby bring about the elimination or non-fulfilment of the preconditions for peace, welfare and good government. So, [1] since the Earth belongs to all, the right of exclusion must be subject to override by the kind of real necessity that in our tradition’s teaching, as articulated by St. Thomas, makes property revert to common availability to the extent required to relieve such necessity. [*Aquinas* 191-6] That kind of override is found in the Convention relating to the Status of Refugees 1951 as extended temporally and geographically by Protocol of 1967. But [2] as that Convention shows in its *determinations* [specifications or particularizations] of the universal right of refuge, the exercise of even this fundamental right is by no means unconditional, and requires, among other things, that the refugee conform to our (just) laws and regulations as well as to (just) measures taken for the maintenance of our public order.”

78. *Law of Peoples*, 39 n. 48.

79. “Extensive force and coercion”: Joseph Raz, “Multiculturalism,” *Ratio Juris* 11 (1998): 193-205, 202.

80. And, to recall Mill’s point, such sympathies are particular to the members of this people; as sympathies, they “do *not* exist between them and others.” Plato was so impressed

Since the maintenance of a welfare state within the framework of the rule of law is a major component of the common good and a strong requirement of justice, it will be a rather strong requirement of justice—in conditions favorable to mass movement—that immigration be regulated by discriminating among some kinds of non-nationals and other kinds, with a view to preserving one's people from the destruction or corrosion of these various cultural and dispositional preconditions for a just and stable common good.<sup>81</sup>

Two additional points about Rawls's defence of the ethics of maintaining strong, secure nations. They are points of special importance, I think, in the face of the ever more indiscriminate use by courts and activists of an anti-discrimination principle, which functions rather like a new communism.<sup>82</sup> The first point to be made is that Rawls's defence of nations, which is significant because it cuts against what many assumed were the implications of his original theory of justice, depends not only on factual assumptions, i.e., judgments, about the conditions under which the common good can be maintained but also on strongly (albeit highly plausible) substantive and positive evaluations. Think particularly of his thesis that it is right, or at least often right, for a people to be united in judging that their historic culture has been and is, at least substantially, a good one—that it has “accomplishments” on which they can look with legitimate “*amour propre*.”<sup>83</sup> So, secondly,

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by the problem of overcoming exclusive family and/or tribal loyalties that, with due hesitations, but repeatedly, he postulated an ideal of a community-wide sharing of women and children, so that (as a profound modern interpreter puts it) “the profound sentiments arising from sex relations, as well as the parent-child relations, will no longer be contained in the small family but will be communized” (Plato's word: *koinoneo*). See Eric Voegelin, *Plato and Aristotle*, volume 3 of *Order and History* (Baton Rouge and London, Louisiana State University Press, 1957, 1985), 118. Plato himself was aware of the extremism of this communist (or excessively universalist) proposal; Aristotle's criticisms of it (see *Politics* 2.1-2: 1260b37-1264b3; Voegelin, *Plato and Aristotle*, 319-22; Finnis, *Natural Law and Natural Rights*, 144-7, 158) enhance the efficiency argument for private property with elements relating to independence, autonomy and generosity. These elements are not included in the efficiency argument later deployed by Aquinas and, though thinly, as we have seen, by Rawls. But they are present in mutated form in one part of Leo XIII's defence of property in his encyclical letter, *Rerum Novarum* (15 May 1891), secs. 13-15.

81. Finnis, “Nationality, Alienage and Constitutional Principle,” *Law Quarterly Review* 123 (2007): 417-45; “Discriminating between Faiths: A Case of Extreme Speech?,” *Extreme Speech and Democracy*, ed. Ivan Hare and James Weinstein (Oxford: Oxford University Press, 2009), 428-39; and “Universality, Personal and Social Identity, & Law”. Neither that set of essays nor this section of the present paper provide a sufficiently comprehensive consideration of the questions of justice and charity at stake in large-scale immigration. But I doubt that such a consideration would render unimportant the considerations advanced in those essays and the present article.

82. On one old kind of communism, see above, n. 80.

83. *Law of Peoples*, 34 (“what Rousseau call *amour propre*”).

Rawls's affirmation of the necessity and legitimacy of this particular, substantive evaluation by the people (or the dominant portion of them) significantly limits—if not eliminates—the application of two of the more famous theses that together are central to his account of “public reason.” The first is that a liberal society (the main one of only two legitimate forms of nation) has *no* “comprehensive conception of the good;”<sup>84</sup> and the second is that his own theory of “political liberalism” is not put forward as true but as an exercise in “constructivism.”<sup>85</sup> His willingness to affirm what amounts to the necessity of patriotic evaluations makes yet more visible how much his programmatic constructivist deflation of such affirmations shares with the skeptical “post-modern” deniers of truth, whose self-refutatory approach to philosophy is nicely caught by Bernard Williams, paraphrasing Alasdair MacIntyre genially noting “the awkwardness that inevitably catches up with the writer...who holds up before the reader’s lens a sign saying that something is true or plausible or worth considering [or, we may add, legitimate], and then tries to vacate the spot before the shutter clicks.”<sup>86</sup>

## V

In the foregoing reflections on the pre-conditions for the degree of unity (as opposed to diversity) necessary for the rule of law and a welfare state, the family figures as source, or at least locus, of an acute, standing threat to the common good of the polity. So it is necessary to add that it seems equally clear that those same preconditions include appropriate sound nurturing of children within families flourishing as families. Family as threat to the political common good is only the perversion of family as foundation of that common good. This foundational significance doubtless includes various elements, biological, psychological, and cultural. So, for example: If the

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84. Ibid. But this is no more than a summary recall of the elaborate constructivist theory of “public reason” articulated by Rawls in *Political Liberalism* ([1993], 1996), where concern for the truth of moral and political principles is replaced by a *postulated* obligation to make one’s political judgments and decisions within the confines of a supposed overlapping and stable consensus of “all reasonable people” or at least of “a sizable body of adherents in a more or less just constitutional regime” (ibid., 15).

85. “Constructivism” here signifies a proposal to replace the question of a proposition’s truth or falsity with the question whether the proposition has been arrived at by an appropriate “procedure of construction” (ibid., 90) such as, in the context of Rawls’s *A Theory of Justice* (that is, of justice *within* political communities) a (postulated) agreement within an “original position,” or, in the same context as reconceived in *Political Liberalism*, within the “overlapping consensus.” See generally Finnis, “Public Reason, Abortion and Cloning,” *Valparaiso University Law Review* 32 (1998): 361-82.

86. *Truth and Truthfulness*, 19.



shared culture so important to a state's stability and fruitfulness for good is to be maintained, it must be transmitted in the first instance by the nurturing of children within their families. Neither political nor legal theory can neglect, or pass over as if embarrassed by, the thesis given a declaratory articulation by the Universal Declaration of Human Rights, art. 16(3): "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State." To call the family (or with John Paul II, the state) "natural" is not, primarily, to say that it exists by necessity, or by instinct or sub-rational inclination. Rather it is to say, above all, that the possibility of establishing, maintaining, and living in a family can easily be understood to be an object of choices that is desirable because fulfilling, not only as a means to other ends but in itself, inherently<sup>87</sup>—and fulfilling not only for the choosers but for many others, especially those whose very existence is an effect of such choices.

Despite Plato's dalliance with a communism of wives and children as solution to the problem created for political communities by family loyalty, both he and that communism's critic, Aristotle, thought their way through to an understanding, real albeit not flawless, that family is essential to the soundness of the *polis*, marriage is essential to the family, and sex acts are meaningful and ethically sound only in the context of marriage. One measure of the perhaps surprising extent of Plato's clarity on these matters: the leading scholarly study of love and friendship in Plato and Aristotle in the last thirty years concluded, with manifest reluctance, that the sex ethics of Plato, Pope Paul VI and Pope John Paul II were essentially identical.<sup>88</sup> (As for Aristotle, his prime example of the category of acts always wrong in themselves is adultery.)<sup>89</sup> Four centuries later, around the end of the first century A.D. but independently of Jewish and Christian influences, we find the Roman Stoic

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87. As Aquinas never tires of saying, X's nature is understood by understanding its capacities, which are understood by their act(uation)s, which are understood by reference to their objects. See *Aquinas*, 29-32.

88. Anthony W. Price, *Love and Friendship in Plato and Aristotle* (Oxford: Clarendon Press, 1989), 229-35, especially 233, 235; Finnis, "Law, Morality, and 'Sexual Orientation'," *Notre Dame Law Review* 69 (1994): 1049-76, 1060, and see 1057-63 for Plato's views as a whole. For brief responses to some responses to that article, see the later version: Finnis, "Law, Morality, and 'Sexual Orientation'," *Notre Dame Journal of Law, Ethics and Public Policy* 9 (1995): 11-39, 18-26. What the predicate "is natural" means in relation to the family is equally what the predicate "is unnatural" asserts is opposed or violated, in Plato's repeated description of homosexual acts as *kata physin*, contrary to nature, unnatural: e.g., *Phaedrus*, 251a, *Laws* 636c, 836, 838, 841.

89. *Nicomachean Ethics* 2.6: 1107a9-17; also *Eudemian Ethics* 2.3: 1221b20-22; for the questionableness of the common opinion that these passages merely make a linguistic and thus tautologous point about the pejorative word "adultery," see Finnis, *Moral Absolutes*, 31-2.

philosopher Musonius Rufus and the Greek polymath Plutarch articulating with clarity the two essential elements of the basic human good of marriage: procreation/parenthood and friendship between husband and wife, who act as equals in the acts of bodily union by which they experience, actualize and express both those elements together.<sup>90</sup> Does it not once again appear that revelation was needed for nothing more (nor less) than this: that its teachings—here its teachings on marriage<sup>91</sup>—make more widely and stably available truths which were always *accessible* to natural reason and had in fact been affirmed by philosophical reflection and even, to some extent, by some cultures which had not been informed by that revelation?

To answer that question with appropriate generality, one should go back to what Bernard Williams (like Hume and Kant and so many other philosophers) missed, the first principles of practical reason which direct us towards the basic intelligible human goods, goods that are in countless ways both the source of all intelligibility and reasonableness in our choices, and the outline of human flourishing—of human nature in its full actuation. Each of these first principles is, so to speak, *transparent* for the human persons in whom such good can be actualized, so transparent that it is, in truth, those persons for whose sake we are responding when we respond at all to the summons and direction of those principles.<sup>92</sup> But this actualization of universals does not exhaust the reality of what is present in such flourishing. Specificity and particularity always add to what is more universal or generic.<sup>93</sup> Love responds to all that is there in the beloved; it responds to the passing stranger in the desert,<sup>94</sup> but makes its necessarily exclusive commitments, and has its necessarily discriminatory loyalty, to this my people or my friend. But to say this is still to speak too generally. Human nature, as the child can see in its parents, is not quite complete (whether in capacities, dispositions or fulfillments) in either male or female. That is why one of the basic human goods is marriage. It is also why—since marriage has the specific kind of act in which it can particularly be realized, experienced and expressed—there is a part of ethics which particularly concerns the conditions under which choosing

90. See "Law, Morality and 'Sexual Orientation'," 1062-5; 24-30.

91. John Paul II, Apostolic Exhortation, *Familiaris Consortio* (22 November 1981), especially sec. 29, reaffirming the key teaching in Paul VI, Encyclical Letter, *Humanae Vitae* (25 July 1968), secs. 9, 11, 12.

92. See Finnis, "Foundations of Practical Reason Revisited," *American Journal of Jurisprudence* 50 (2005): 109-131, 131.

93. Aquinas, *Summa contra Gentiles*, 2.26, 42.

94. See Anscombe, *Faith in a Hard Ground*, 234: "there are lesser friendships: there are friendships of advantage or pleasure, the friendships of fellows in an association, of fellow workers and of fellow citizens—and also of fellow me, as would make its appearance if fear did not when two humans alone find one another in the desert."

behaviour that is or might be of that kind respects that universal good sufficiently to be judged reasonable and right.<sup>95</sup> The conditions, as everyone knows, are demanding enough for revelation to be needed to confirm, and in some lesser measure to clarify, deepen and extend, what the most careful thinkers of Greece and Rome could recognize and teach, even in the midst of a culture devoted, in ways paralleled and surpassed in our day, to shadows in the Cave.

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95. See Finnis, "Marriage: A Basic and Exigent Good," *The Monist* 91/3 (2008): 396-414; *Aquinas*, 143-54; "The Good of Marriage and the Morality of Sexual Relations: Some Philosophical and Historical Observations," *American Journal of Jurisprudence* 42 (1997): 97-134.